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VOL. I, PAGES 1 - 66

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA
CIVIL ACTION NO. 99CV2668 H (AJB)

GEN-PROBE, INCORPORATED

Plaintiff

v.

VYSIS, INC.

Defendant

- - - - -
Deposition of Anthony J. Janiuk

Wednesday, May 16, 2001

1:33 p.m.

Hale and Dorr, LLP

60 State Street

Boston, Massachusetts

- - - - -
Reporter: Deborah Roth, RPR

Q. The next entry on this page is a reference to an Amoco method.

Based on your experience as an attorney with Amoco or Gene-Trak, are you able to draw any inferences about what method of amplification is referred to there?

MR. LIPSEY: Same objection.

A. I have not seen this. I was not party to this -- I was not at this partnership meeting. I do not know what was discussed.

Q. And to the best of your recollection -- you have not seen this document -- you can't recall ever having heard these terms while you worked at Amoco or Gene-Trak?

A. I have not heard anything spoken of as "the Amoco method" or "the Gene-Trak method."

Q. And you're not able to form any belief about what method of amplification might have been described by those terms or referred to by those terms?

A. No.

Q. To the extent you had interactions with Dr. Richards at Amoco and Gene-Trak, did he seem to have a basic understanding of patents?

14:11:58 1 A. Dr. Richards was not a patent attorney. He
14:12:06 2 often did not use words and phrases that we in --
14:12:17 3 that patent attorneys used, correctly.

14:12:22 4 He had -- was an intelligent man
14:12:32 5 technically, very good person, and he could deal
14:12:39 6 with intellectual property issues reasonably well.

14:12:46 7 He usually would seek counsel on most
14:12:50 8 things that involved patent law issues.

14:12:58 9 Q. I think you recalled a general impression
14:13:01 10 that Dr. Richards sometimes did not use words or
14:13:03 11 phrases correctly in a technical sense as a patent
14:13:10 12 lawyer might. Can you recall any particular
14:13:10 13 instances where he had that problem?

14:13:21 14 A. No. That has to do with my experience
14:13:24 15 working with him.

14:13:28 16 Q. But in terms of a particular instance, you
14:13:32 17 can't give me an example?

14:13:33 18 A. No.

14:13:39 19 Q. And I think you told me that it was
14:13:42 20 Dr. Richards' custom when dealing with important
14:13:47 21 matters to seek advice from patent counsel?

14:13:50 22 MR. LIPSEY: I object to the form. Lack
14:13:50 23 of foundation.

14:13:53 24 A. I think that he generally did, yes.

no.

Q. I would like you to look at Exhibit 143, please.

MR. BOWEN: What I will ask to be marked Exhibit 143.

(Exhibit No. 143 was marked.)

Q. Exhibit 143 is a letter dated November 14, 1989 to Dr. Richards. Your name is typed at the bottom. It appears that someone may have signed the letter for you.

Did somebody else sign the letter for you?

A. I don't have any present recollection of this letter, but it's on my letterhead, and it could very well have been sent out to Dr. Richards at Gene-Trak Systems.

MR. LIPSEY: That wasn't quite the question he asked you.

A. What is it?

Q. Do you think somebody else signed the letter for you?

A. I think that's my secretary's signature signing my name, and I think that would have been at my instruction, yes, sir.

Q. At one point in time did you have a secretary whose initials were "VAY"?

A. I had I think a secretary named Vickie.

Q. That's only 12 years ago. Come on.

A. I don't know what her last name was. Vickie -- I think I had a secretary Vickie.

Q. As you sit here, do you think it's likely that Exhibit 143 was prepared at your request and sent to Dr. Richards?

MR. LIPSEY: I object to the form.

A. I think that this letter was probably sent at my instruction and did what it purports to have done.

Q. Do you recall why you sent Dr. Richards a copy of the '920 application in November of 1989?

A. Are you questioning the date or why I sent it to Dr. Richards?

Q. Why.

A. Why I sent it to Dr. Richards?

I would have sent to it to Dr. Richards, because I think this would have been one of the assets that Amoco would have been contributing to Gene-Trak Systems as part of the joint venture.

Q. Can you recall any conversations with